

JP:WDS

11-005

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA

- against -

REMOVAL TO THE DISTRICT
OF COLUMBIA

(Fed. R. Crim. P. 5(c))

JAMES SMALL,
also known as
"Mike King,"
"Julias Williams" and
"Eugene Sims,"

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

PATRICK LIN, being duly sworn, deposes and says that he is a Deputy United States Marshal with the United States Marshals Service, duly appointed according to law and acting as such.

Upon information and belief, on May 23, 2005, an arrest warrant was issued by the United States District Court for the District of Columbia, commanding the arrest of the defendant JAMES SMALL, also known as "Mike King," "Julias Williams" and "Eugene Sims," for a violation of supervised release, pursuant to Title 18, United States Code, Section 3583.

The source of your deponent's information and the grounds for his belief are as follows:

1. On May 23, 2005, an arrest warrant was issued by the United States District Court for the District of Columbia, commanding the arrest of JAMES SMALL, also known as "Mike King," "Julias Williams" and "Eugene Sims," for a violation of

supervised release. A copy of the application for an arrest warrant and the arrest warrant from the United States District Court for the District of Columbia are attached hereto.

2. On August 5, 1993, the defendant was convicted of possession with intent to distribute cocaine, contrary to Title 21, United States Code, Section 841(a)(1) and (b)(1)(C) and sentenced to 120 months of incarceration, to be followed by a five-year term of supervised release. The defendant was assigned to supervision in the Eastern District of New York based on his residence in Brooklyn.

3. According to the warrant application, on June 12, 2002, the defendant was arrested for possession of a firearm in Manhattan; upon his arrest, the defendant gave the name "Julias Williams," although subsequent fingerprint checks revealed the defendant's true identity. The defendant was released on bail in the amount of \$7,500. On July 9, 2002, a grand jury in Manhattan returned an indictment against the defendant for criminal possession of a weapon in the third degree, contrary to section 265.02(3) of the New York Penal Law, but the defendant thereafter failed to appear. On September 19, 2002, a bench warrant was issued for the defendant's arrest. At the same time, the defendant also absconded from his supervised release in the Eastern District of New York.

4. On April 6, 2009, the defendant was arrested in Brooklyn, New York and thereafter charged with criminal possession of a weapon in the second degree, contrary to

265.03(3) of the New York Penal Law, and assault in the second degree, contrary to section 120.05(3) of the New York Penal Law. Following his arrest in that case, on June 11, 2009, the United States Marshals Service lodged a detainer against the defendant based on the outstanding arrest warrant from the United States District Court for the District of Columbia.

5. The defendant was taken into custody by the United States Marshals Service on January 4, 2011, at which time the defendant advised that he was aware of the outstanding warrant out of the United States District Court for the District of Columbia and admitted that he was the person named in that warrant. Furthermore, the date of birth and Social Security number given by the defendant upon entering federal custody matched those in the attached warrant.

WHEREFORE, it is requested that the defendant JAMES SMALL, also known as "Mike King," "Julius Williams" and "Eugene Sims," be removed to the District of Columbia so that he may be dealt with according to law.



Patrick Lin
Deputy United States Marshal
United States Marshals Service

Sworn to before me this

IKY
DGE
:


Prob 19-DC
(1/82)

**United States District Court
for the
District of Columbia**

U.S.A. vs. James Small

Docket No.: CR 93-171-01

TO: ¹Any United States Marshal or any other authorized officer.

WARRANT FOR ARREST OF PROBATIONER/SUPERVISED RELEASEE			
You are hereby commanded to arrest the within-named defendant and bring him or her, forthwith before the United States District Court to answer charges that he or she violated the conditions of his or her supervision imposed by the court.			
NAME OF SUBJECT James Small	SEX Male	RACE Black	AGE 30
ADDRESS (STREET, CITY, STATE) 401 E. 23 rd Street, #10R Brooklyn, NY 11226			
SENTENCE IMPOSED BY (NAME OF COURT) United States District Court for the District of Columbia			
CLERK Nancy Mayer-Whittington	(BY) DEPUTY CLERK 		DATE 5/23/05

RETURN		
Warrant received and executed	DATE RECEIVED	DATE EXECUTED
EXECUTING AGENCY (NAME AND ADDRESS)		
NAME	(BY)	DATE

¹Insert designation of officer to whom the warrant is issued, e.g., "any United States Marshal or any other authorized officer;" or "United States Marshal for the District of Columbia;" or "any United States Marshal; or "Any Special Agent of the Federal Bureau of Investigation;" or "any United States Marshal or any Special Agent of the Federal Bureau of Investigation;" or "any agent of the Alcohol Tax Unit."

PROB 20
(Rev. 8/91)**PERSONAL HISTORY OF ABSCONDER**

To: U.S. Marshal, Warrant Supervisor

TYPE OF WARRANT

FROM: Darryl Hughes *alt*Supervised Release ☒ [X]

OFFICE: United States Probation Office District of Columbia

PHOTO AVAILABLE No ☒ [X]

PHONE NO.: (202) 565-1300

DATE: May 17, 2005

IN CUSTODY NOW: No ☒ [X]

WHERE: Not in Custody

RE: SMALL

James

(Last)

(First)

(Middle)

☒ [X] Male

RACE:

Black Non Hispanic

DATE OF BIRTH: [REDACTED]

PLACE OF BIRTH: New York

HT: 6' 2"

WT: 200 lbs.

EYES: Brown

HAIR: Black

*** (NOTE: This info required for NCIC)

COMPLEXION: Dark

SCARS, TATTOOS, DEFORMITIES, OTHER ID MARKS:
Tattoos: Panther on right side of chest, "SKB" on left arm; scar on abdomen.

FBI #: [REDACTED]

SOCIAL SECURITY NUMBER: [REDACTED]

LOCAL POLICE #: NYSID: [REDACTED]

DOCKET #: CR 93-171-01

DRUG USE: No ☒ [X]ALIASES: Mike King; Juluis Williams;
Eugene SimsLAST KNOWN OR CURRENT ADDRESS: 401 E. 23rd Street, Apt. 10R, Brooklyn, NY 11226

LAST KNOWN OR CURRENT TELEPHONE NO.: [REDACTED]

FORMER PHONE NOS.: None

FORMER ADDRESSES: [REDACTED] Brooklyn, NY 11216 (1993)

DATE, PLACE, OFFENSE, AND AGENCY RESPONSIBLE FOR ARREST RESULTING IN SUPERVISION
PLACEMENT:

3/24/1993, Washington, D.C., Unlawful PWID 50 Grams or More of Cocaine Base, Narcotics Interdiction Unit.

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DATE OF LAST KNOWN ARREST: 6/12/02		PLACE: New York, NY	
NATURE OF ARREST: Criminal Possession of a Weapon, 2 nd Degree: Criminal Possession of a Weapon, 3 rd Degree			
VIOLENT HISTORY (Type): 2 prior arrests for possession of a loaded handgun.			
DATE OF LAST FACE-TO-FACE CONTACT WITH PROBATION OFFICER: 6/6/2002 (with USPO Daly, District of New York)			
DOES SUBJECT KNOW WARRANT HAS BEEN ISSUED: No <input checked="" type="checkbox"/> [X]			
NEXT KNOWN COURT APPEARANCE:	Date: N/A	Location: N/A	Type: N/A
KNOWN CO-DEFENDANTS AND ASSOCIATES AND AREAS SUBJECT MAY FREQUENT (names, aliases, addresses):			
Unknown			
KNOWN FAMILY AND RELATIVES (name, relation address, phone no.)			
[REDACTED] Brooklyn, NY 11226 [REDACTED], Son [REDACTED] who resides with his mother, [REDACTED] in the Bronx.			
OCCUPATION: Barber's Assistant		DATE OF LAST EMPLOYMENT: 7/2002	
LAST EMPLOYER AND ADDRESS: Platinum Cuts, 1163 Bedford Avenue, Brooklyn, NY (718) 22-7238			
AUTOMOBILE, DESCRIBE: N/A			
AUTO LICENSE NO., IF KNOWN: N/A			
OTHER RELATIVE INFORMATION: Bench warrant (Case No. 2002NY040346) remains outstanding			
NAME AND TELEPHONE NO. OF PROBATION OFFICER: Darryl Hughes 202-565-1328			
NAME OF SUPERVISOR: Ervin Bell 202-565-1413			

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
PROBATION OFFICE

RICHARD A. HOUCK, JR.
CHIEF UNITED STATES PROBATION OFFICER

E. BARRETT PRETTYMAN U.S. COURTHOUSE
333 CONSTITUTION AVENUE, N.W., SUITE 2800
WASHINGTON, D.C. 20001-2866
TELEPHONE (202) 565-1300

MEMORANDUM

March 2, 2005

To: Honorable Thomas F. Hogan
Chief United States District Judge

Through: Ervin D. Bell, Supervising ⁶⁰³
United States Probation Officer
Tel: (202) 565-1314

From: Darryl L. Hughes ²⁷⁴
United States Probation Officer
Tel: (202) 565-1328

Re: **SMALL, James**
Docket Number: 93-171-01
**HEARING ON VIOLATION OF SUPERVISED RELEASE/WARRANT
REQUESTED**

RECEIVED

MAR 02 2005

CHAMBERS OF CHIEF JUDGE
THOMAS F. HOGAN

SENTENCE: Mr. Small was found guilty of Unlawful Possession with the Intent to Distribute Cocaine, 21 U.S.C. §§ 841(a)(1) and 841 (b)(1)(C) on August 5, 1993. He was sentenced on October 28, 1993, to 120 months incarceration, followed by five years supervised release. Special conditions ordered include: 1) pay a \$50 assessment fee; 2) not possess a firearm or destructive device; 3) not use or possess any illegal drugs or frequent places where illegal drugs are used, sold, or distributed, and not associate with known drug dealers or users; and 4) work full-time, if not enrolled in an educational program, or part-time. If participating in an educational program, he shall at least work on a part-time basis. Supervision commenced in the Eastern District of New York December 31, 2001, given his residence in Brooklyn, NY., and expires December 30, 2006.

ISSUE: In our September 24, 2002, Memorandum and Probation Form 12, we charged Mr. Small with alleged violations of supervised release and requested a warrant be issued. The Court subsequently ordered the issuance of a warrant, which remains outstanding. Mr. Small's supervision is scheduled to expire on December 30, 2006. In *U.S. v. Vargas-Amaya*, No. 03-50577, 2004 WL 2650821 (9th Cir. November 22, 2004), the 9th Circuit ruled that the court lacked jurisdiction to consider alleged violations of supervised release because the warrant was unsupported by an oath or affirmation as required by the Fourth Amendment.

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The ruling is only controlling in the 9th Circuit. However, we are re-alleging the September 24, 2002, violations of supervised release and are affirming our request for a warrant, to ensure that the Court has jurisdiction to consider the alleged violations and to conduct a violation hearing beyond the December 30, 2006, expiration date.

Reference is made to the attached petition in which a hearing on violation of supervised release and warrant is requested. Mr. Small is charged with the following violations of supervised release.

1. **On June 12, 2002, Mr. Small possessed a firearm, destructive device, or other dangerous weapon. He was arrested and charged with Criminal Possession of a Weapon in the 2nd degree, in violation of N.Y.S. Penal Law § 265.03(2) and Criminal Possession of a Weapon in the 3rd Degree, in violation of N.Y.S. Penal Law § 265.02(4). (Special/Standard Condition)**

According to the arrest report submitted by supervising officer, Elizabeth Daly with the Eastern District of New York, Mr. Small was arrested June 12, 2002, at 8:37 p.m., on the corner of 149th St. and Riverside Drive in Manhattan, NY. by officers of the N.Y.P.D. He was charged as stated above.

The prosecutor's report indicates, officers observed Mr. Small sprinting from a unknown location, as if he was being chased. When they began to follow him, he threw a loaded .380 pistol into a garbage can on the street. Upon his arrest, he was found to be in possession of \$400 cash and no identification. He gave the alias "Julias Williams" to officers, and stated he was a resident of Teaneck, NJ. Subsequent fingerprinting revealed Mr. Small's true identity and he posted \$7,500 bail. On July 9, 2002, Mr. Small was indicted by grand jury on the above charges, in addition to Criminal Possession of a Weapon in the 3rd Degree, in violation of N.Y.S. Penal Law § 265.02(3).

On September 19, 2002, a bench warrant was issued for Mr. Small, as he failed to appear for a court hearing for the pending charges in Case No. 2002NY040346, Criminal Possession of a Weapon in the 2nd degree and Criminal Possession of a Weapon in the 3rd Degree. Supervision of Mr. Small's case was closed by the Eastern District of New York effective November 13, 2002. According to supervising officer Elizabeth Daly, Mr. Small is classified as an absconder. As of this date, Mr. Small has not made contact with Probation in either District. The bench warrant (Case No. 2002NY040346) and the warrant issued in this case remain outstanding.

2. **Failure to the Notify his Probation Officer within 72-hours of being Arrested or Questioned by a Law Enforcement Officer. (Standard Condition # 11)**

Officer Daly reports, Mr. Small failed to advise her within 72 hours of his arrest on June 12, 2002. To date, he has not notified the Probation Department of this arrest.

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3. Failure to Submit a Truthful and Complete Written Report within the First 5 Days of Each Month. (Standard Condition # 2)

On July 12, 2002, Officer Daly reports she received Ms. Small's June 2002 Monthly Supervision Report via mail. He answered in the negative to all of the following questions: "Were you questioned by any law enforcement officers?", "Were you arrested or named as a defendant in any case?", and "Do you possess or have access to a firearm?" In light of the above mentioned arrest, all these responses are untruthful.

SUPERVISION ADJUSTMENT: Unsatisfactory, according to Officer Daly. She reports Mr. Small resides in Brooklyn, NY with his fiancée, Khadija Stevens, and her daughter, Milan. She reported Mr. Small being employed by Reality C.H.E.K. Foundation, in Brooklyn, as an office assistant and messenger. However, in the period between January and April 2002, she attempted eight employment contacts (4 field contacts and 4 telephone calls), during Small's reported work hours, wherein he was never found.

When confronted, he explained on those days he was either out sick, looking for other employment, running errands, or that there was no work for him to perform. Finally, on April 22, 2002, Mr. Small advised he no longer was employed at Reality C.H.E.K. Foundation and was searching for new employment. On June 6, 2002, he reported securing employment as a barber's assistant at Platinum Cuts, in Brooklyn. This employment has yet to be verified.

Officer Daly also reports that Mr. Small has a 10-year-old son, Khaliq, who resides with his mother, Tuquoia Fludd, in the Bronx, NY. On May 7, 2002, Ms. Fludd petitioned for an order of support in Family Court, for Mr. Small's alleged failure to provide for his son. It was ordered he pay \$50 a month for child support. Ms. Fludd subsequently contacted Officer Daly and advised that Mr. Small showed her a "wad of cash" after the court procedure. She believes he did this to prove he had more money than he claimed during the court proceedings, and that she wasn't going to get any of it. This allegedly occurred during a period when Mr. Small was unemployed.

Officer Daly reports this is Mr. Small's second term of community supervision, having absconded from a local term of probation following his conviction in September 1991, for 5th Degree Felony Possession, in Orange County, NY. It should also be noted that Mr. Small received a downward departure at the time of his sentencing for the instant offense, as he was facing a term of 135 to 168 months, and was sentenced to 120 months incarceration. This departure was made in light of the Court's consideration of the offender's "inadequate upbringing."

STATUTORY GUIDELINES AND OPTIONS: The most serious violation, Violation No.: 1, represents a Grade B violation, pursuant to U.S.S.C. Guidelines Manual §7B1.1(a)(2). Upon a finding of a Grade B violation, the Court shall revoke supervised release, pursuant to U.S.S.C. Guidelines Manual §7B1.3(a)(1).

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA
PROBATION OFFICE


RICHARD A. HOUCK, JR.
CHIEF UNITED STATES PROBATION OFFICER


E. BARRETT PRETTYMAN U.S. COURTHOUSE
333 CONSTITUTION AVENUE, N.W., SUITE 2800
WASHINGTON, D.C. 20001-2866
TELEPHONE (202) 565-1300

MEMORANDUM

December 6, 2002

To: Honorable Thomas F. Hogan
Chief Judge
United States District Court for the District of Columbia

Through: Edward Scott Chinn, Supervising 
United States Probation Officer
Tel: (202) 565-1328

From: Darryl L. Hughes 
United States Probation Officer
Tel: (202) 565-1324

Re: **SMALL, James**
Docket Number: 93-171-01
STATUS UPDATE

SENTENCE: Mr. Small was found guilty of Unlawful Possession with the Intent to Distribute Cocaine, 21 U.S.C. §§ 841(a)(1) and 841 (b)(1)(C) on August 5, 1993. He was sentenced on October 28, 1993, to 120 months incarceration, followed by five years supervised release. Special conditions ordered include: 1) pay a \$50 assessment; 2) not possess a firearm or destructive device; 3) not use or possess any illegal drugs or frequent places where illegal drugs are used, sold, or distributed, and not associate with known drug dealers or users; and 4) work full-time, if not enrolled in an educational program, or part-time. If participating in an educational program, he shall at least work on a part-time basis. Supervision commenced in the Eastern District of New York on December 31, 2001, given his residence in Brooklyn, NY., and expires on December 30, 2006.

On September 24, 2002, we submitted to Your Honor a memorandum and violation report detailing alleged violations and requested that a warrant be issued. The request was acknowledged and a warrant was issued on September 24, 2002. At this writing, the warrant has not been executed.

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ISSUE: On September 19, 2002, a bench warrant was issued for Mr. Small, as he failed to appear for a court hearing for the pending charges in Case No. 2002NY040346, Criminal Possession of a Weapon in the 2nd degree, in violation of N.Y.S. Penal Law § 265.03(2) and Criminal Possession of a Weapon in the 3rd Degree, in violation of N.Y.S. Penal Law § 265.02(4). Supervision of Mr. Small's case was closed by the Eastern District of New York effective November 13, 2002. According to supervising officer Elizabeth Daly, Mr. Small is classified as an absconder. As of this date, Mr. Small has not made contact with Probation in either District.

SUPERVISION ADJUSTMENT: Referencing the Violation Report dated September 24, 2002, we reported that Mr. Small's adjustment was unsatisfactory. At this juncture, we have no reasons which indicate his current adjustment differs.

RECOMMENDATION: Consider the above issue during the Hearing on Violation.

We will keep Your Honor apprized of any changes in Mr. Small's status. Please sign/date below and return acknowledging this update.

Honorable Thomas F. Hogan
Chief Judge
United States District Court for the District of Columbia

Date

PROB 12A
(Rev. 12/82)

UNITED STATES DISTRICT COURT
FOR THE
THE DISTRICT OF COLUMBIA

FILED

MAR 3 2005

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

U.S.A. vs. SMALL, James

Docket No. CR 93-171-01

REQUEST FOR COURSE OF ACTION
(Issuance of a Warrant)

COMES NOW Darryl Hughes, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of James Small, who was placed on supervised release by the Honorable H. Dale Cook, United States District Judge, sitting in the Court at Washington, D.C., on the 28th day of October, 1993, who fixed the period of supervised release at five years, and imposed the general terms and conditions of supervised release theretofore adopted by the Court, and also imposed special conditions and terms as follows:

- 1) Pay a \$50 special assessment fee;
- 2) Not possess a firearm or destructive device;
- 3) Not use or possess any illegal drugs or frequent places where illegal drugs are used, sold, or distributed, and not associate with known drug dealers or users; and
- 4) Work full-time, if not enrolled in an educational program, or part-time. If participating in an educational program, he shall at least work on a part-time basis.

Mr. Small was found guilty of Unlawful Possession with the Intent to Distribute Cocaine, 21 U.S.C. §§ 841(a)(1) and 841 (b)(1)(C) on August 5, 1993. He was sentenced on October 28, 1993, to 120 months incarceration, followed by five years supervised release. Supervision commenced in the Eastern District of New York on December 31, 2001, given his residence in Brooklyn, NY. His term expires December 30, 2006.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE
AS FOLLOWS:

Statement of Alleged Violations of Supervised Release

1. On June 12, 2002, Mr. Small possessed a firearm, destructive device, or other dangerous weapon. He was arrested and charged with Criminal Possession of a Weapon in the 2nd degree, in violation of N.Y.S. Penal Law § 265.03(2) and Criminal Possession of a Weapon in the 3rd Degree, in violation of N.Y.S. Penal Law § 265.02(4). (Special/Standard Condition)

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2. Mr. Small possessed a firearm, destructive device, or other dangerous weapon. (Special Condition)
3. Failure to the Notify his Probation Officer within 72-hours of being Arrested or Questioned by a Law Enforcement Officer. (Standard Condition # 11)
4. Failure to Submit a Truthful and Complete Written Report within the First 5 Days of Each Month. (Standard Condition # 2)

PRAYING THE COURT WILL ORDER the re-issuance of a warrant for the arrest of Mr. Small as a supervised release violator and proceed with a hearing on violation of supervised release.

I declare under penalty of perjury that the forgoing is true and correct.

Executed on March 2, 2005



Darryl L. Hughes
United States Probation Officer
(202) 565-1328

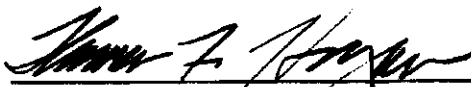
APPROVED BY:



Ervin D. Bell, Supervising
United States Probation Officer

ORDER OF COURT

Considered and ordered this 2 day of March, 2005.



United States District Judge

SMALL, James
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Notice of Delivery to Parties:

Tasheeka Hawkins
U.S. Attorney's Office
Washington, D.C.

A. J. Kramer
625 Indiana Ave., NW,
5th Floor, Suit 550
Washington, D.C. 20004

James Small
Unavailable